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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,925	01/02/2001	Dauna R. Williams	056205-5001US	1241
9629 7590 12/17/2010 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				
EXAMINER ALVAREZ, RAQUEL				
ART UNIT 3688		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/752,925

**Applicant(s)**

WILLIAMS, DAUNA R.

**Examiner**

Raquel Alvarez

**Art Unit**

3688

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/4/2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-20 and 22-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20, 22-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SD-05)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to communication filed on 5/4/2010.
2. Claims 18-20, 22-48 are presented for examination.

**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-20, 22-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trewitt et al. (6,134,531 hereinafter Trewitt) in view of Abelow (2004/0177002 hereinafter Abelow).

With respect to claims 18, 19-20, 22, 24, 27 Trewitt teaches a computer processor selectively programmed to provide an electronic query to a member of an audience a current episode for a show, wherein said show comprises a series of episodes having a common theme and characters with subsequent episodes advancing a story line of said show, (i.e. the system receives feedback from viewers of a broadcast program, the program having different segments and using the user's reactions over time for program variations)(line 1, lines 64 to col. 2, lines 1-5);

A computer processor selectively programmed for receiving and storing in memory said feedback messages (i.e. the gathering the feedback and storing it in order to use it over time in different segment of the program)(col. 2, lines 2-5 and col. 5, lines 39-44);

A computer processor selectively programmed for aggregating a plurality of collected feedback messages into data and electronically analyzing said data to provide a report that is utilized in development of the story line and/or characters in one or more subsequent future episodes for said show and wherein said processors may be one processor or a plurality of interconnected processors (i.e. taken client's feedback /responses/reactions overtime in order to develop variations of the program/show)(col. 2, lines 2-5).

With respect to said query provided by way of a multi-tier questions hierarchy comprising separate tiers of questions, each questions assigned to a tier based on when chronologically the response generated by the question can be integrated into said story. Trewitt teaches the response of the questions are incorporated into the program/show over time. Trewitt is silent as to separate tiers of questions, based on when the chronologically responses generated by the question can be integrated into a story. Abelow teaches on paragraphs 0166 0275 0278 scale questions running different type of questions which automatically specify the first and third categories while having to attach only the on task questions to varying trigger points. Different questions and sets of questions during product development. The responses are used over time to improve the product. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the teachings of Abelow of structuring the query in a multi-tiered hierarchy in order to receive follow up answers and really get to know how a customer feels about a specific subject and use this information for development of a product/service/show.

With respect to claim 23, Trewitt further teaches the receiving being performed via the Internet (Figure 1, 160).

With respect to claim 25, Trewitt further teaches the data being transmitted to a broadcast center server 110.

Claim 26 further recite that the feedback message is to be incorporated into the script of a show scheduled for broadcast within seven days. Trewitt teaches that the feedback messages are incorporated into the broadcast show. Trewitt is silent as to how long it takes for the user's feedback to be incorporated into the show. Incorporated the user's input within seven days will allow proper and ample of time for the show to be edit with the new content. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included incorporating the user's input within 7 days in order to obtain the above mentioned advantage.

Claims 28-33 further recite that the query further comprises a prequel-mercial to gather feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show. Trewitt doesn't specifically teach that the questions/query comprises a prequel-mercial to gather feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show. Official

notice is taken that it is old and well known in TV shows to place commercials promoting responses to shows, educating the audience of the upcoming shows in order to promote the upcoming events. For example, previews of upcoming shows promote audience participation and viewership of the show, as well as educate and promote the show and shows the viewers mini-portions of the upcoming shows, the viewers feedback is measure by the viewership of the show. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included query of prequel-mercial to garner feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show in order to obtain the above mentioned advantage.

Claim 34 further recites that the prequel-mercial comprises product placement advertisement within said storyline. Official notice is taken that it is old and well known in marketing to provide advertisements/information/products related to the information that the user is viewing. For example, certain websites will provide advertisements or the like based on the content of the web page that the user is viewing. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included prequel-mercial comprises product placement advertisement within said storyline in order to better target the product placements.

Claims 35-41 and 42 further recites the feedback messages being filtered based on whether said message is corresponding is responding to an editor-driven , a director,

a writer driven or an Online request. Trewitt is silent to filtering the message based on where the message came from. Official notice is taken that it is old and well known to filter information based on the source that the information came from in order to organize and better analyze the information obtained. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included to filtering the message based on where the message came from in order to obtain the above mentioned advantage.

Claims 43-45 further recite one or more characters web portal that enables user to purchase an item worn by said character in said show. Trewitt is silent as to characters as web portals which enable the users to order items order by said characters. Official Notice is taken that it is old and well known to make item/products/services as web portals in order to allow ordering/hyperlinking to products, services and characters. Using the same concept on actors/characters on a show will allow for easy accessing information and buying products related to the characters.

5. Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trewitt in view of Abelow further in view of Slaney et al. (6,968,565 hereinafter Slaney).

With respect to claims 46-48, Trewitt teaches a computer that transmit Internet queries to an audience of a broadcast show, wherein said broadcast show is one of a series of shows, with at least one subsequent show of a series of shows not yet

broadcast (i.e. the system receives feedback from viewers of a broadcast program, the program having different segments and using the user's reactions over time for program variations)(line 1, lines 64 to col. 2, lines 1-5); a computer that receives and stores responses to said Internet queries (i.e. the gathering the feedback and storing it in order to use it over time in different segment of the program)(col. 2, lines 2-5 and col. 5, lines 39-44).

With respect to said query provided by way of a multi-tier questions hierarchy comprising separate tiers of questions, each questions assigned to a tier based on when chronologically the response generated by the question can be integrated into said story. Trewitt teaches the response of the questions are incorporated into the program/show over time. Trewitt is silent as to separate tiers of questions, based on when the chronologically responses generated by the question can be integrated into a story. Abelow teaches on paragraphs 0166 0275 0278 scale questions running different type of questions which automatically specify the first and third categories while having to attach only the on task questions to varying trigger points. Different questions and sets of questions during product development. The responses are used over time to improve the product. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the teachings of Abelow of structuring the query in a multi-tiered hierarchy in order to receive follow up answers and really get to know how a customer feels about a specific subject and use this information for development of a product/service/show.



With respect to a computer that tracks each of said responses based on one more characteristics of corresponding responders and making storyline recommendations based on said responses, said recommendations based on one or more geographic areas of said responders and customizing said broadcast into group sharing said characteristics. Slaney teaches television programs targeted based on viewer's location (col. 21, lines 21-44). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included customizing the broadcast based on the group user's geographic/profile characteristics in order to broadcast a customized and tailored program based on the group's selection.

**Response to Arguments**

6. Applicant argues that Abelow doesn't teach each question assigned to a tier based on when chronologically the questions can be integrated into the story. The Examiner disagrees with Applicant because Abelow teaches scale questions which are different type of questions geared toward different trigger points in the product development (paragraphs 0166 0216 0275 and 0278).
7. Applicant argues that Abelow is not directed to television shows. The Examiner wants to point out that the claims were rejected over Trewitt in view of Abelow. Trewitt teaches correlating real-time feedback into television programs. Therefore the combination of Trewitt and Abelow teach the claimed invention.

8. With respect to Applicant's arguments pertaining viewer profiles containing subscriber location. Arguments are moot based in the new ground of rejection.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571)272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

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12/14/2010